

DOC NO
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UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WISCONSIN
2012 SEP 18 AM 11:35

Shawn Robert Bierd (a living man)	PETER OPPENEER	
Representing COUNTERCLAIMANTS	CLERK US DIST COURT	
ADVANCE AUTO BODY LLC	WD OF WI	
AND SHAWN BIERD)	
)	
v.)	Civil Action No. 11cv341
)	
IRS, UNITED STATES OF AMERICA,)	
ET AL)	
)	

AFIDAVIT AND REBUTTAL TO UNITED STATES' CLAIMS OF NON-COMPLIANCE WITH CONTEMPT ORDER

Upon conclusion of the hearing at United States District court on August 30th, 2012, I, Shawn Robert Bierd, had an exchange with Bart Brellenthin in the hallway before leaving the courthouse. We agreed to meet to discuss how best for me to move forward into compliance with the court order. Due to unknown reasons Brellenthin was unable to meet with me when I called the next day but that he had contacted Mike Majewski and set up a time to meet with him on the following Tuesday September 4th to turn in the paperwork that had been ordered by the court. Brellenthin and I discussed what was to be turned in to Majewski at that meeting in detail. I had even repeated it back to him to make sure that it was perfectly clear in my mind.

Brellenthin said that he could not make a determination about whether or not Fritz Weber was an independent contractor and that the court would have to make that determination but stated that, "I don't think the court is convinced". I maintain that he is an independent contractor and absent a determination of the court I have done all that is required of me in regard to the courts order.

After meeting with Majewski I reconfirmed whether or not I am in compliance to which he stated, "yes", except that he was not sure of the independent contractor issue. He printed me several screenshots from the IRS website on the issue. The language used is ambiguous, as I have come to expect from the IRS. A quote from one the pages says, "There is no 'magic' or set number of factors that 'makes' the worker an employee or an independent contractor and no one factor stands alone in making this determination." There are no statutory definitions that I am aware of.

I worked as an independent contractor for over two years when I was twenty six years old. The job was direct sales. I represented the company that hired me and their products. I had to work every weekday and most weekends, including Sunday, as was required, I

demonstrated and sold their products, I used their sales tools, I was provided with their telephone marketing solicited appointment, I even occasionally used their vehicles to get to the appointment and I received a weekly paycheck (no withholding). I have known of many other people over the years that worked in a similar capacity as an independent contractor.

If the courts order stated that I must furnish a 1099 MISC, it would have been turned in with the other paperwork that was ordered. Naturally, if the IRS or the court order or request me to do that, it will be done.


On page three of the government's memorandum it states that I pay Weber in cash, that is not what I said or do. I said that when it was entered into the journal it was stated as cash but the check was made out to Weber. I have accurate records of what was paid to prepare the 1099 if told to do so. I do not recall from memory about being ordered to do so. If it was ordered I would have done so. I recall the court wanting me to do a zero return if the workers at Advance were independent contractors.

There is absolutely no need to incarcerate me for noncompliance as I could not do the impossible as the government would have me do. I have not withheld one penny of Weber's property so how could I commit perjury on a 940 or 941 form by saying that I had.

Further Affiant sayeth not.

WITHOUT PREJUDICE, ALL RIGHTS RESERVED

Autograph of Third Party Interest Intervenor

By:  Date 9-17-12
AGENT, Shawn Robert Bierd

CERTIFICATE OF SERVICE

I, Shawn Robert Bierd, attest to this document and others delivered as follows;

Original: to the court At: 120 North Henry Street
Madison, Wisconsin 53703

Copies: Via US mail: MIRANDA BUREAU
TAX DIVISION, CENTRAL REGION
UNITED STATES DEPARTMENT OF JUSTICE
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